

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

IN RE: Bair Hugger Forced Air Warming  
Products Liability Litigation

MDL No. 15-2666 (JNE/FLN)

This Document Relates to All Actions.

**PLAINTIFF(S)**

**MASTER SHORT FORM  
COMPLAINT AND JURY TRIAL  
DEMAND**

**VS.**

**3M COMPANY AND ARIZANT  
HEALTHCARE, INC.**

1. Plaintiff, Betty M. Templeton, states and brings this civil action in MDL No. 15-2666, entitled *In Re: Bair Hugger Forced Air Warming Products Liability Litigation*. Plaintiff(s) [is/are] filing this Short Form Complaint as permitted by Pretrial Order #8 of this Court.

**PARTIES, JURISDICTION AND VENUE**

2. Plaintiff, Betty M. Templeton, is a resident and citizen of the State of South Carolina and claims damages as set forth below.

3. Plaintiff's Spouse, Joe Templeton, is a resident and citizen of the State of South Carolina, and claims damages as set forth below.

4. Jurisdiction is proper based upon diversity of Citizenship.

5. Proper Venue: The District Court in which remand trial is proper and where this Complaint would have been filed absent the direct filing order by this Court is Aiken,

South Carolina.

6. Plaintiff brings this action:

X On behalf of [herself];

\_\_\_\_\_ In a representative capacity as the \_\_\_\_\_ of the  
\_\_\_\_\_ having been duly appointed as the  
\_\_\_\_\_ by the \_\_\_\_\_ Court of \_\_\_\_\_.

A copy of the Letters of Administration for a wrongful death claim is annexed hereto if such letters are required for the commencement of such a claim by the Probate, Surrogate or other appropriate court of the jurisdiction of the decedent.

*[Cross out if not applicable.]*

### **FACTUAL ALLEGATIONS**

7. On or about 7/15/2013, Plaintiff underwent surgery during which the Bair Hugger Forced Air Warming system (hereinafter “Bair Hugger”) was used during the course and scope of [his/her] surgery at the Aiken Regional Medical Center, 302 University Parkway in Aiken, South Carolina, by Dr. Timothy Shannon.

8. Contaminants introduced into Plaintiff’s open surgical wound as a direct and proximate result of use of the Bair Hugger during the subject surgery resulted in Plaintiff developing a periprosthetic joint infection (“PJI”), also known as a deep joint infection (“DJI”).

9. As a result of Plaintiff’s infection caused by the Bair Hugger, Plaintiff has undergone IV antibiotics for infection, revision arthroplasty, wound vac treatment as well as multiple staged procedures ending in the amputation on or about 8/5/2013 through

12/19/2013, at Aiken Medical Center 302 University Parkway Aiken, South Carolina, Infectious Disease Specialist 102 Summerwood Way, Aiken, South Carolina, Intermedical Hospital of South Carolina 1330 Taylor Street, Columbia, South Carolina, The Regional Medical Center 3000 St. Matthews Road, Orangeburg, South Carolina, Select Specialty Hospital 5353 Reynolds Street, Savannah, Georgia, Georgia Regents Medical Center 1120 5<sup>th</sup> Street Augusta, Georgia by Dr(s). Timothy Shannon, Gerald Gordon, Laura Herpel, Shawn Ghent, Lamar W. Dawkins, Jr., Edmond F. Ritter.

### **ALLEGATIONS AS TO INJURIES**

10. (a) Plaintiff claims damages as a result of (check all that are applicable):

<u>  X  </u>	INJURY TO HERSELF/HIMSELF
<u>      </u>	INJURY TO THE PERSON REPRESENTED
<u>      </u>	WRONGFUL DEATH
<u>      </u>	SURVIVORSHIP ACTION
<u>      </u>	ECONOMIC LOSS

(b) Plaintiff's spouse claims damages as a result of (check all that are applicable): [*Cross out if not applicable.*]

<u>  X  </u>	LOSS OF SERVICES
<u>  X  </u>	LOSS OF CONSORTIUM

11. Defendants, by their actions or inactions, proximately caused the injuries to Plaintiff(s).

### **DEFENDANT-SPECIFIC ALLEGATIONS AND THEORIES OF RECOVERY**

12. The following claims and allegations are asserted by Plaintiff(s) and are herein adopted by reference (check all that are applicable):

X  

FIRST CAUSE OF ACTION - NEGLIGENCE;

  X  

SECOND CAUSE OF ACTION - STRICT LIABILITY;

\_\_\_\_\_ FAILURE TO WARN

\_\_\_\_\_ DEFECTIVE DESIGN AND MANUFACTURE

  X  

THIRD CAUSE OF ACTION – BREACH OF EXPRESS WARRANTY;

\_\_\_\_\_

FOURTH CAUSE OF ACTION- BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY LAW OF THE STATE OF \_\_\_\_\_, §§ \_\_\_\_\_;

\_\_\_\_\_

FIFTH CAUSE OF ACTION- VIOLATION OF THE MINNESOTA PREVENTION OF CONSUMER FRAUD ACT;

\_\_\_\_\_

SIXTH CAUSE OF ACTION – VIOLATION OF THE MINNESOTA DECEPTIVE TRADE PRACTICES ACT;

\_\_\_\_\_

SEVENTH CAUSE OF ACTION- VIOLATION OF THE MINNESOTA UNLAWFUL TRADE PRACTICES ACT;

\_\_\_\_\_

EIGHTH CAUSE OF ACTION- VIOLATION OF THE MINNESOTA FALSE ADVERTISING ACT;

\_\_\_\_\_

NINTH CAUSE OF ACTION- CONSUMER FRAUD AND/OR UNFAIR AND DECEPTIVE TRADE PRACTICES UNDER LAW OF THE STATE OF \_\_\_\_\_, §§ \_\_\_\_\_ ;

  X  

TENTH CAUSE OF ACTION – NEGLIGENT MISREPRESENTATION;

  X  

ELEVENTH CAUSE OF ACTION- FRAUDULENT MISREPRESENTATION;

\_\_\_\_\_

TWELFTH CAUSE OF ACTION – FRAUDULENT CONCEALMENT;

  X  

THIRTEENTH CAUSE OF ACTION – LOSS OF CONSORTIUM; and

  X  

FOURTEENTH CAUSE OF ACTION – UNJUST

ENRICHMENT.

In addition to the above, Plaintiff(s) assert the following additional causes of action under applicable state law:

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*[Cross out if not applicable.]*

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff(s) pray for judgment against Defendants as follows:

1. For compensatory damages;
2. Pre-judgment and post-judgment interest;
3. Statutory damages and relief of the state whose laws will govern this action;
4. Costs and expenses of this litigation;
5. Reasonable attorneys' fees and costs as provided by law;
6. Equitable relief in the nature of disgorgement;
7. Restitution of remedy Defendants' unjust enrichment; and
8. All other relief as the Court deems necessary, just and proper.

**JURY DEMAND**

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff(s) hereby demand(s) a trial by jury as to all claims in Complaint so triable.

Dated: July 15, 2016

Respectfully submitted,  
s/Daniel S. Haltiwanger

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